

| | |
|----------------|-----------------|
| Bill no.: | Committee Print |
| Amendment no.: | 57 |
| Date offered: | 4/13/05 |
| Disposition: | Agreed to by VV |

AMENDMENT TO COMMITTEE PRINT
OFFERED BY MR. BLUNT OF MISSOURI FOR HIM-
SELF AND MR. FERGUSON OF NEW JERSEY
AND MR. NORWOOD OF GEORGIA

In title XII, amend section 1236 to read as follows:

1 **SEC. 1236. NATIVE LOAD SERVICE OBLIGATION.**

2 Part II of the Federal Power Act (16 U.S.C. 824 et
3 seq.) is amended by adding at the end the following:

4 **"SEC. 217. NATIVE LOAD SERVICE OBLIGATION.**

5 "(a) MEETING SERVICE OBLIGATIONS.—(1) Any
6 load-serving entity that, as of the date of enactment of
7 this section—

8 "(A) owns generation facilities, markets the
9 output of Federal generation facilities, or holds
10 rights under 1 or more wholesale contracts to pur-
11 chase electric energy, for the purpose of meeting a
12 service obligation, and

13 "(B) by reason of ownership of transmission fa-
14 cilities, or 1 or more contracts or service agreements
15 for firm transmission service, holds firm trans-
16 mission rights for delivery of the output of such gen-
17 eration facilities or such purchased energy to meet
18 such service obligation,



1 is entitled to use such firm transmission rights, or, equiva-
2 lent tradable or financial transmission rights, in order to
3 deliver such output or purchased energy, or the output of
4 other generating facilities or purchased energy to the ex-
5 tent deliverable using such rights, to the extent required
6 to meet its service obligation.

7 “(2) To the extent that all or a portion of the service
8 obligation covered by such firm transmission rights or
9 equivalent tradable or financial transmission rights is
10 transferred to another load-serving entity, the successor
11 load-serving entity shall be entitled to use the firm trans-
12 mission rights or equivalent tradable or financial trans-
13 mission rights associated with the transferred service obli-
14 gation. Subsequent transfers to another load-serving enti-
15 ty, or back to the original load-serving entity, shall be enti-
16 tled to the same rights.

17 “(3) The Commission shall exercise its authority
18 under this Act in a manner that facilitates the planning
19 and expansion of transmission facilities to meet the rea-
20 sonable needs of load-serving entities to satisfy their serv-
21 ice obligations, and enables load-serving entities to secure
22 firm transmission rights (or equivalent tradable or finan-
23 cial rights) on a long term basis for long term power sup-
24 ply arrangements made, or planned, to meet such needs.



1 “(b) ALLOCATION OF TRANSMISSION RIGHTS.—
2 Nothing in subsections (a)(1) and (a) (2) of this section
3 shall affect any existing or future methodology employed
4 by an RTO or ISO for allocating or auctioning trans-
5 mission rights if such RTO or ISO was authorized by the
6 Commission to allocate or auction financial transmission
7 rights on its system as of January 1, 2005, and the Com-
8 mission determines that any future allocation or auction
9 is just, reasonable and not unduly discriminatory or pref-
10 erential, provided, however, that if such an RTO or ISO
11 never allocated financial transmission rights on its system
12 that pertained to a period before January 1, 2005, with
13 respect to any application by such RTO or ISO that would
14 change its methodology the Commission shall exercise its
15 authority in a manner consistent with the Act and the
16 policies expressed in subsections (a)(1) and (a)(2) as ap-
17 plied to firm transmission rights held by a load serving
18 entity as of January 1, 2005, to the extent the associated
19 generation ownership or power purchase arrangements re-
20 main in effect.

21 “(c) CERTAIN TRANSMISSION RIGHTS.—The Com-
22 mission may exercise authority under this Act to make
23 transmission rights not used to meet an obligation covered
24 by subsection (a) available to other entities in a manner



1 determined by the Commission to be just, reasonable, and
2 not unduly discriminatory or preferential.

3 “(d) OBLIGATION TO BUILD.—Nothing in this Act
4 shall relieve a load-serving entity from any obligation
5 under State or local law to build transmission or distribu-
6 tion facilities adequate to meet its service obligations.

7 “(e) CONTRACTS.—Nothing in this section shall pro-
8 vide a basis for abrogating any contract or service agree-
9 ment for firm transmission service or rights in effect as
10 of the date of the enactment of this subsection. If an ISO
11 in the Western Interconnection had allocated financial
12 transmission rights prior to the date of enactment of this
13 section but had not done so with respect to one or more
14 load-serving entities’ firm transmission rights held under
15 contracts to which the preceding sentence applies (or held
16 by reason of ownership of transmission facilities), such
17 load-serving entities may not be required, without their
18 consent, to convert such firm transmission rights to
19 tradable or financial rights, except where the load-serving
20 entity has voluntarily joined the ISO as a participating
21 transmission owner (or its successor) in accordance with
22 the ISO tariff.

23 “(f) WATER PUMPING FACILITIES.—The Commis-
24 sion shall ensure that any entity described in section
25 201(f) that owns transmission facilities used predomi-

1 nately to support its own water pumping facilities shall
2 have, with respect to such facilities, protections for trans-
3 mission service comparable to those provided to load-serv-
4 ing entities pursuant to this section.

5 “(g) FERC RULEMAKING ON LONG-TERM TRANS-
6 MISSION RIGHTS IN ORGANIZED MARKETS.—Within one
7 year after the date of enactment of this section and after
8 notice and an opportunity for comment, the Commission
9 shall by rule or order implement subsection (a)(3) in Com-
10 mission-approved RTOs and ISOs with organized elec-
11 tricity markets.

12 “(h) ERCOT.—This section shall not apply within
13 the area referred to in section 212(k)(2)(A).

14 “(i) JURISDICTION.—This section does not authorize
15 the Commission to take any action not otherwise within
16 its jurisdiction.

17 “(j) EFFECT OF EXERCISING RIGHTS.—An entity
18 that lawfully exercises rights granted under subsection (a)
19 shall not be considered by such action as engaging in
20 undue discrimination or preference under this Act.

21 “(k) TVA AREA.—For purposes of subsection
22 (a)(1)(B), a load-serving entity that is located within the
23 service area of the Tennessee Valley Authority and that
24 has a firm wholesale power supply contract with the Ten-



1 nessee Valley Authority shall be deemed to hold firm
2 transmission rights for the transmission of such power.

3 “(1) DEFINITIONS.—For purposes of this section:

4 “(1) The term ‘distribution utility’ means an
5 electric utility that has a service obligation to end-
6 users or to a State utility or electric cooperative
7 that, directly or indirectly, through 1 or more addi-
8 tional State utilities or electric cooperatives, provides
9 electric service to end-users.

10 “(2) The term ‘load-serving entity’ means a dis-
11 tribution utility or an electric utility that has a serv-
12 ice obligation.

13 “(3) The term ‘service obligation’ means a re-
14 quirement applicable to, or the exercise of authority
15 granted to, an electric utility under Federal, State
16 or local law or under long-term contracts to provide
17 electric service to end-users or to a distribution util-
18 ity.

19 “(4) The term ‘State utility’ means a State or
20 any political subdivision of a State, or any agency,
21 authority, or instrumentality of any 1 or more of the
22 foregoing, or a corporation which is wholly owned,
23 directly or indirectly, by any 1 or more of the fore-
24 going, competent to carry on the business of devel-
25 oping, transmitting, utilizing or distributing power”.